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FEDERAL ELECTION COMMISSION
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CELA

FIRST GENERAL COUNSEL'S REPORT

MUR: 6732

DATE COMPLAINT FILED: April 29, 2013

DATE OF NOTIFICATION: May 1, 2013

RESPONSE RECEIVED: January 17, 2014

DATE OF ACTIVATION: May 6, 2015

ELECTION CYCLE: 2012, 2014

EXPIRATION OF SOL: January 31, 2017 –
March 20, 2018

COMPLAINANT:

Mike Rusher, North Carolina Republican Party

RESPONDENTS:

North Carolina Democratic Party – Federal and
Charles E. Reece in his official capacity as
treasurer

**RELEVANT STATUTES
AND REGULATIONS:**

52 U.S.C. § 30104(a)-(b)¹
11 C.F.R. § 104.3(d)

INTERNAL REPORTS CHECKED:

Disclosure Reports

FEDERAL AGENCIES CHECKED:

None

¹ On September 1, 2014, the Federal Election Campaign Act, as amended (the "Act") was transferred from Title 2 to new Title 52 of the United States Code.

I. INTRODUCTION

MUR 6732 address alleged disclosure violations by the North Carolina Democratic Party – Federal and Charles E. Reece² in his official capacity as treasurer (“Committee”) during the 2012 and 2014 election cycles.

For the reasons discussed below, we recommend that the Commission find reason to believe that the Committee violated 52 U.S.C. § 30104(b) and 11 C.F.R. § 104.3, and authorize pre-probable cause conciliation with the Committee.

II. FACTUAL AND LEGAL ANALYSIS

A. Background

This matter was initially generated by a Complaint alleging that the Committee made several reporting errors on its monthly disclosure reports. Specifically, the Complaint alleges that the Committee’s 2013 February Monthly Report incorrectly reported the date of receipt of \$14,115 in “Tax Check Off Funds” from the State of North Carolina as January 15, 2013.³ The Complaint asserts that although the North Carolina Department of Revenue indicated that it transferred those funds to the North Carolina Political Parties Financing Fund on that date, they were not transferred to the Committee until later that year.⁴ The Complaint also alleges that the Committee did not report any debts or obligations on any of its reports covering the periods from January 1, 2012, through February 28, 2013.⁵

² After the Complaint, Referral, and Responses were filed in this matter, the North Carolina Democratic Party – Federal filed an Amended Statement of Organization naming Charles E. Reece as its new treasurer. See Amended Statement of Organization at 1 (Mar. 6, 2015).

³ Compl. at 1.

⁴ *Id.*

⁵ *Id.*

1 In its Response, the Committee asserts that it believed that it would receive a \$14,115
2 payment from the State of North Carolina, and therefore included that receipt on its 2013
3 February Monthly Report.⁶ The Committee further asserts that when it learned that it had not
4 received the payment, it "promptly voided the transaction" on its March Report.⁷ However, the
5 Committee never amended its February Monthly Report to remove the payment from its
6 receipts.⁸

7 With respect to the allegation that it had omitted debts and obligations from its reports,
8 the Committee contends that the Complaint does not allege any violations of the Act, since it
9 does not point to any specific debts or obligations that should have been reported.⁹ Nevertheless,
10 the Committee's Response states that "as a result of [the] Complaint and significant staff
11 transition," it undertook "an exhaustive review of all of its reporting practices in 2012 and 2013,"
12 and as a result of that review, "filed comprehensive amendments to its reports to include debts
13 and obligations."¹⁰ The Committee asserts that most of these debts were invoices paid within
14 five to seven days of receipt and were not initially included on debt schedules based on staff's
15 "good faith belief . . . that these invoices were not required to [be included] on any debt schedule
16 due to the speed in which they were paid."¹¹ The Response also attaches a spreadsheet that

⁶ MUR 6732 Resp. at 1.

⁷ *Id.*; see Amended 2013 March Monthly Report at 15 (Aug. 27, 2013) (listing the receipt of -\$14,115 from the State of North Carolina on February 28, 2013 on Schedule A, with the notation "Voided Transaction Data Entry Error Original Transaction Date 1/15/2013"); Amended 2013 March Monthly Report at 15 (Dec. 16, 2013) (same).

⁸ See Amended 2013 February Monthly Report at 40 (Aug. 27, 2013) (listing the receipt of \$14,115 in "Tax Check Off Funds" from the State of North Carolina on January 15, 2013 on Schedule A); Amended 2013 February Monthly Report at 40 (Dec. 16, 2013) (same).

⁹ MUR 6732 Resp. at 1-2.

¹⁰ *Id.* at 2.

¹¹ *Id.*

purports to list the debts "paid within days."¹² The spreadsheet and the Committee's amended reports, however, indicate that some debts were outstanding for several months.¹³

It appears that the Committee made the amendments referenced in the Response in December 2013, and they reflect total increased debt activity for the time period addressed in the Complaint as follows:

Report	Date Amended	Increased Debt
2012 February Monthly	December 11, 2013	\$25,730
2012 March Monthly	December 11, 2013	\$29,806
2012 April Monthly	December 11, 2013	\$37,659
2012 May Monthly	December 11, 2013	\$23,398
2012 June Monthly	December 11, 2013	\$20,242
2012 July Monthly	December 11, 2013	\$42,997
2012 August Monthly	December 12, 2013	\$91,564
2012 September Monthly	December 12, 2013	\$39,073
2012 October Monthly	December 12, 2013	\$419,973
2012 Pre-General	December 12, 2013	\$49,677
2012 Post-General	December 12, 2013	\$110,662
2012 Year-End	December 12, 2013	\$93,120
2013 February Monthly	December 16, 2013	\$40,818
2013 March Monthly	December 16, 2013	\$50,818
Total		\$1,075,537

¹² *Id.*, Ex. A.

¹³ *See id.*

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B. Legal Analysis

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The Act requires political committee treasurers to file reports of receipts and

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disbursements in accordance with the provisions of 52 U.S.C. § 30104. 52 U.S.C.

1 §§ 30104(a)(1), 30104(b)(2)-(7); 11 C.F.R. §§ 104.1(a), 104.3(a)-(c). The reports also must
2 include the amount and nature of outstanding debts and obligations owed by or to the political
3 committee. 52 U.S.C. § 30104(b)(8); 11 C.F.R. § 104.3(d).

4 Here, the Committee misreported \$14,115 in receipts and failed to report \$1,075,537 in
5 outstanding debts and obligations. As noted above, the Committee's 2013 February Monthly
6 Report incorrectly reported the date of receipt of \$14,115 in "Tax Check Off Funds" from the
7 State of North Carolina as January 15, 2013.²⁰ The available information indicates that the
8 Committee did not receive this payment on that date.²¹ In addition, the Committee did not
9 comply with the Act's reporting requirements when it failed to disclose \$1,075,537 in
10 outstanding debts and obligations on the 14 original reports listed above,

11 ²² Accordingly, we recommend that the Commission
12 find reason to
13 believe that the Committee violated 52 U.S.C. § 30104(b) and 11 C.F.R. § 104.3.

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²⁰ See 2013 February Monthly Report at 39 (Feb. 20, 2013).

²¹ See Compl., Ex. B; MUR 6732 Resp. at 1; Amended 2013 March Monthly Report at 15 (Dec. 16, 2013).
The Committee reported the receipt of \$335,276 in "Tax Check Off Funds" from the State of North Carolina on
August 14, 2013, which presumably included the \$14,115 addressed in the Complaint. See 2013 September
Monthly Report at 31 (Sept. 20, 2013).

²² As discussed above, the Committee notes that many of the newly disclosed debts were from invoices that it
had received at the end of a month and paid at the beginning of the next month, and that it would not have had to
report these debts but for the fact that state party committees are generally required to file monthly reports. See
MUR 6732 Resp. at 2; Commission regulations, however, require that any debt or obligation
exceeding \$500, excluding any obligation for rent, salary, or other regularly occurring administrative expense, be
reported as of the date it is incurred. 11 C.F.R. § 104.11(b).

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IV. RECOMMENDATIONS

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3. Find reason to believe that the North Carolina Democratic Party – Federal and Charles E. Reece in his official capacity as treasurer violated 52 U.S.C. § 30104(b) and 11 C.F.R. § 104.3.
4. Approve the attached Factual and Legal Analysis.
5. Authorize pre-probable cause conciliation with the North Carolina Democratic Party – Federal and Charles E. Reece in his official capacity as treasurer.
- 6.
7. Approve the appropriate letter.

9.2.15

Date

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